

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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11-15-06

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Order Instituting Rulemaking to Implement the  
Commission's Procurement Incentive  
Framework and to Examine the Integration of  
Greenhouse Gas Emissions Standards into  
Procurement Policies.

Rulemaking 06-04-009

**PREHEARING CONFERENCE COMMENTS OF PACIFIC  
GAS AND ELECTRIC COMPANY (U 39 E) FILED  
PURSUANT TO RULEMAKING 06-04-009**

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

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**PREHEARING CONFERENCE COMMENTS OF PACIFIC  
GAS AND ELECTRIC COMPANY (U 39 E) ON PHASE 2  
OF RULEMAKING 06-04-009**

**I. INTRODUCTION**

Pursuant to the November 1, 2006, Joint Administrative Law Judges' Ruling and Notice of Prehearing Conference (ALJs' Ruling) in the above-captioned proceeding and Rule 6.2 of the Commission's Rules of Practice and Procedure (Rules), Pacific Gas and Electric Company (PG&E) submits these pre-Prehearing Conference comments on the scope, schedule and other procedural issues associated with Phase 2 of this proceeding and implementation of the California Global Warming Solutions Act of 2006 ("AB 32").

As discussed in more detail below, PG&E generally supports the schedule and scope of the Phase 2 proceeding as outlined in the ALJs' Ruling, subject to recommendations on coordination and cooperation and avoidance of duplicative regulation discussed below. Although the 24-month schedule is ambitious in light of the breadth of tasks needed to be accomplished, PG&E believes that action on global climate change can and should be expedited on all levels, and the Commission is to be commended for accelerating its schedule to meet this need. PG&E also believes that AB 32 recognizes the Commission's particular expertise and experience on electric and gas utility matters, and therefore delegates to the Commission a

significant role in consulting with and advising the California Air Resources Board (CARB) on how AB 32 should be implemented and applied to electric and gas utilities within the Commission's jurisdiction. See, e.g., Health and Safety Code sections 38501(g), 38561(a), 38562(f).

AB 32 also states the Legislature's intent that CARB and the Commission "ensure that electricity and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements," and that CARB "minimize the administrative burden of implementing and complying with" greenhouse gas emissions (GHG) reduction regulations. (Health and Safety Code sections 38501(g), 38561(a), 38562(b)(7).) It is likely that both the Commission and CARB will be holding workshops and building regulatory records on many of the same AB 32 implementation issues either simultaneously or out of sequence with each other, unless both agencies map out a common, mutually agreed upon schedule and scope. In addition, other entities, such as the California Energy Commission, the Climate Action Team and the California Environmental Protection Agency, may also be conducting AB 32-related proceedings, and it is also important that those be coordinated with both the Commission and CARB's proceedings. Thus, in pursuing the scope and schedule outlined in the ALJs' Ruling, PG&E recommends that the Commission coordinate in advance with CARB and other relevant agencies and teams, such as the Climate Action Team, on the specific schedule and sequencing of tasks and topics, in order to avoid confusion, duplication, and inconsistency in the public process undertaken by both agencies to implement AB 32. This coordination also should include public input from interested parties, such as through an informal workshop or collaborative process conducted by all relevant agencies.

In general for Phase 2 of this proceeding, PG&E supports the workshop-and-written-

comments approach used by the Commission in Phase 1 of this proceeding.

PG&E provides more detailed comments and suggestions on the AB 32 process below.

## **II. SCOPE, SEQUENCE, AND TIMING OF PHASE 2 ISSUES**

### **A. Scope of Phase 2**

Implementation of AB 32 and related GHG reduction programs is a massive, multi-year undertaking, requiring extensive, detailed technical and economic modeling, forecasting, and cost-benefit evaluation. AB 32 leaves most of the key details of California's program to the lead regulatory agencies, with broad criteria that must be applied in developing GHG emissions reporting, measurement and reduction measures. Notwithstanding this daunting task, PG&E believes the Commission has identified most of the key programmatic elements and underlying issues in Attachment A of the ALJs' Ruling.

However, PG&E believes that three additional "programmatic elements" and one "overarching" public policy issue should be added to the scope of Phase 2, in recognition of the Commission's particular expertise on electric and natural gas issues.

First, one of the programmatic elements in Phase 2 should be specific consideration by the Commission of electric and natural gas system reliability and resource adequacy issues that may be associated with different methods for allocating GHG emissions allowances and for designing flexible and market-based compliance mechanisms. PG&E believes that AB 32 emissions limits can – *and must* – be designed to ensure continued reliability of California's systems for providing essential electric and gas service to consumers, businesses and governmental agencies.

Second, given the Commission's expertise in evaluating the feasibility and cost-effectiveness of emerging low-carbon energy technologies, Phase 2 should include consideration

of the technological and commercial feasibility of various emissions reduction targets and strategies that may be allocated to the electricity and gas sectors. Ideally, this assessment could be undertaken jointly with the California Energy Commission, in order to take advantage of both agencies' special expertise in this area.<sup>1</sup>

Third, the Commission also possesses special expertise in the modeling and forecasting of electric and gas rates and revenue requirements, based on various alternatives for long-term procurement of electricity and natural gas supplies by the utilities under its jurisdiction.

Finally, an overarching public policy consideration should be integrated into the Commission's consideration of all issues associated with application of AB 32 to the electricity and gas sector: The State's GHG reduction program "must take into account the relative contribution of each source or source category" of GHG emissions, and ensure that the "distribution of emissions allowances...is equitable" among all different sectors and sources subject to the program. Given that AB 32 is a comprehensive "all source" program, but does not impose specific caps on each source, PG&E expects that some sources or categories of sources may attempt to shift the burden of meeting the overall statewide 1990 GHG emissions cap to other sources or categories of sources, through requests for differential treatment or even wholesale exemptions from the statewide cap. Therefore, it is incumbent upon the Commission, the constitutional agency charged with evaluating the overall reasonableness of public utility rates and costs, to play a key role in assessing the reasonableness of the allocation of compliance cost burdens among utility customers in the state and non-utility sectors and sources.

## **B. Sequence and Timing of Phase 2**

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<sup>1</sup> PG&E notes that the CPUC is already delegated responsibility by the Governor's Climate Action Team (CAT) to provide followup evaluations of various emissions reduction strategies and estimated costs impacts related to the electric and gas utility sector. See "Data Request for Climate Action Team," CPUC Division of Strategic Planning, November 6, 2006.

PG&E has reviewed the draft scope of issues and sequencing listed in Attachments A and B of the ALJs' Ruling. As a preliminary matter, PG&E recommends the issues be expanded to include the system reliability, technological feasibility and rate impact issues identified above. In addition, each issue should include consideration of the overall "fairness" and "relative contribution" issue discussed above.

PG&E appreciates the overall thoroughness in the listing of specific issues in Attachment A, and the admirable attempt in Attachment B to map out a logical sequence for consideration of each issue over the 24 month schedule for Phase 2. Nonetheless, both the list and sequencing suffer from the inherent "non-linear," iterative and inter-related nature of many of the AB 32 implementation issues. For example, establishing reporting standards and requirements depends in part on which sources and categories of sources are subject to GHG emissions reduction standards, and what the specific standards and/or baselines are. Similarly, the allocation of emissions allowances depends in part on whether allowances are tradable and whether emissions are regulated on a source-specific basis or based on loads. Likewise, regulation of out-of-state sources which deliver electricity or gas into California is dependent in part on whether other states or the federal government are developing or implementing their own GHG emissions reduction programs.

PG&E recognizes that there may be no one "perfect" sequencing of these issues, and the Commission needs to start somewhere and – most importantly – without delay. With this in mind, we recommend that the Commission immediately convene a "roadmap" workshop among interested parties, shortly after the prehearing conference, to hammer out a logical and hopefully consensus list of issues and sequencing for Phase 2. As an initial "strawperson" list of key issues, PG&E recommends the following tasks and sequence for calendar year 2007:

1. *Coordination of Issues Among Commission, CARB, and Energy Commission*
2. *CCAR and CARB Reporting and Measurement Protocols, and Compatibility/Consistency Among Sources and Categories of Sources*
3. *Policy Issue: Load-based Cap vs. Point-Source Regulation vs. Alternative Methods*
4. *System Reliability “Safety Valves”*
5. *Energy Technology Feasibility Methodology and Evaluation*
6. *Evaluation of Cost Impacts*
7. *Allocation of Allowances Among Sources and Categories of Sources*

This list is not intended to preclude or replace the list or sequence in Attachments A and B. However, PG&E believes that Phase 2 can be streamlined and move forward faster if key, threshold policy issues and implementation principles can be decided first, while other more technically-intensive issues, such as measurement and reporting protocols, go forward on a parallel track. In addition, if the Commission, CARB and the Energy Commission establish a joint “roadmap” which allocates responsibility for different issues among each other, implementation of AB 32 can move forward faster and without the risk of being bogged down by duplicative and inconsistent regulatory decisions.

PG&E will be prepared to discuss these important procedural issues in more detail at the PHC and welcomes an informal dialogue among all interested parties and the Commission.

### **III. COORDINATION WITH CARB, GOVERNOR’S CLIMATE ACTION TEAM, AND CLIMATE REGISTRY**

PG&E has commented above on the need for careful coordination among the Commission, CARB and the Energy Commission. PG&E also agrees that the Commission should continue its close coordination and participation on the Governor’s Climate Action Team,

particularly in light of the continued leadership of CalEPA in coordinating California's overall climate change programs.

The Commission should also coordinate and invite direct participation by the California Climate Registry in Phase 2. Under AB 32, the Registry's reporting standards and protocols must be used by CARB "where appropriate and to the maximum extent feasible." (Health and Safety Code section 38530(b)(3).) Thus, the Commission's consideration of reporting and measurement of GHG emissions must be consistent with the Registry's protocols as they may be incorporated into CARB's AB 32 implementation. Likewise, the Commission should enlist the active participation by the California Independent System Operator in the consideration of system reliability and resource adequacy issues associated with AB 32.

Given the importance of its coordination with these multiple state agencies, the Commission should do so with maximum transparency and input from the public and interested parties. This can be done informally through the workshop process, and through providing public notices of inter-agency coordination meetings and/or meeting summaries, so that all interested parties have an opportunity to comment on or participate in any key coordination decisions reached in those meetings and workshops.

#### **IV. PROCEDURAL APPROACH AND SCHEDULE**

PG&E supports the Commission's overall goal of completing its tasks within the 24 month schedule. PG&E also strongly supports an informal, hybrid approach to the public process for Phase 2. Under this hybrid process, the Commission should schedule a series of topic-related informal public workshops, similar to those used successfully and collaboratively in Phase 1 of this proceeding, with the objective of drafting "straw person" consensus principles and policies for implementation of key AB 32 programmatic elements. Separately, the



Commission should establish one or two “technical standards” committees, using the multi-industry technical working group approach it has used to develop other technical standards, such as utility maintenance and operating standards under the General Orders. The “technical committees” could be charged with developing and presenting to the larger group of interested parties and the Commission a set of consensus technical standards on key issues such as reporting and measurement and technological feasibility.

Given the key role the CARB will play in ultimately adopting AB 32 GHG limits and allowances, the Commission should plan to take the results and recommendations at key stages of Phase 2 and share and advocate those recommendations publicly with all interested parties and in public proceedings at CARB, as appropriate. This would ensure the continued and effective coordination and public involvement between the Commission’s proceedings and CARB’s.

#### **V. HEARINGS ARE NOT NECESSARY, BUT MAY BE NECESSARY ON SPECIFIC DESIGN AND IMPLEMENTATION ISSUES**

As PG&E stated in Phase 1, PG&E does not believe that hearings are necessary at the present time for the key design and implementation issues in Phase 2 of this proceeding. The workshop and technical committee hybrid approach discussed above should help move the proceeding forward expeditiously and with sufficient opportunity for input from interested parties. In the event that significant factual, policy or legal controversy occurs during the informal workshops or technical committee deliberations, then any interested party may request formal evidentiary hearings and those hearings may be necessary in order to provide concrete testimony and on-the-record interaction among interested parties to resolve the dispute.

However, PG&E believes that the informal workshop approach would allow more efficient and more informative “give and take” among the parties, the ALJ, Commission staff, and other key agencies, thus leading to a higher likelihood of agreement on key issues in this multi-year, multi-

agency effort.

## **VI. CATEGORIZATION OF THIS PROCEEDING**

PG&E does not object to the categorization of this phase of the proceeding as “quasi-legislative” within the meaning of Rule 5(d).

## **VII. CONCLUSION**

PG&E commends the Commission for moving forward expeditiously with this vital and ambitious proceeding, and looks forward to continuing to work with the Commission, the CARB, the Climate Action Team, and other key agencies and stakeholders to make the implementation of AB 32 and other climate action initiatives a success, and a model for national and international action. PG&E appreciates the opportunity to comment on the ALJs’ Ruling, and asks that our comments and recommendations be adopted as part of the final scoping memo for this phase of the proceeding.

Respectfully Submitted,

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Dated: November 15, 2006

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **“PREHEARING CONFERENCE COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) FILED PURSUANT TO RULEMAKING 06-04-009”** on the parties listed below and the parties listed in the official service list for R.006-04-009 by

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Executed on November 15, 2006, at San Francisco, California.

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/s/  
MARTIE L. WAY

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# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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## CPUC DOCKET NO. R0604009 CPUC REV 11-14-06

Total number of addressees: 219

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